

COPYRIGHT LAW OF KOREA

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Law No. 4541, March 6, 1993 (Government Organization Act)

Law No. 4717, January 7, 1994

Law No. 4746, March 24, 1994 (Libraries and Reading Promotion Act)

Law No. 5015, December 6, 1995

Law No. 5453, December 13, 1997 (Act on Readjustment of the Certified Public Accountant Act concerning Enforcement of the Administrative Procedures Act)

Law No. 6134, January 12, 2000

Law No. 6881, May 27, 2003

Law No. 7233, October 16, 2004

Law No. 8101, December 28, 2006

CHAPTER 1. GENERAL PROVISIONS

Article 1(Purpose)

The purpose of this Act is to protect the rights of authors and the rights neighboring on them and to promote fair use of works in order to contribute to the improvement and development of culture.

Article 2(Definitions)

The definitions of the terms used in this Act shall have the meaning as follows:

1. "Works" shall mean creative productions in which the ideas or emotion of human beings are expressed
2. "Authors" shall mean the persons who create works
3. "Public performances" shall mean the presentation of a work, or a performance, a phonogram or a broadcast to the public by acting, musical playing, singing, narrating, reciting, screening, reproducing or by other means, and shall include transmission (excluding interactive transmission) that is made in a connected place in one and the same person's occupation
4. "Performers" shall mean the persons who express a work by acting, dancing, musical playing, singing, narrating, reciting or by other artistic

means, or who express something other than a work done in a similar method including the persons who conduct, direct or supervise performances

5. "Phonograms" shall mean the media in which the sound (which refers to voice or sound effect herein same hereinafter) is fixed (excluding those in which the sound is fixed together with some visual images);
6. "Phonogram producers" shall mean the persons who plan and assume responsibility for the fixation of the sound in a phonogram
7. "Communication to the public" shall mean transmission of a work, a performance, a phonogram, a broadcast or a database (hereinafter referred to as "works, etc.") or making available to the public by wire or wireless means intended for reception or access by the public
8. "Broadcasting" shall mean, among communication to the public, the transmission of sounds, images, or sounds and images intended for simultaneous reception by the public
9. "Broadcasting organizations" shall mean the persons who engage themselves in the broadcasting business
10. "Interactive transmission" shall mean, among communication to the public, making available of works, etc. to the public in such a way that members of the public may access them from a place and at a time individually chosen by them, and shall include the transmissions occurred from such making available of works, etc.
11. "Digital sound transmission" shall mean, among communication to the public, the transmission of sounds in the digital method which is commenced upon request of members of the public intended for simultaneous reception by the public, and shall exclude interactive transmissions.
12. "Digital sound transmission organizations" shall mean the persons who engage themselves in the digital sound transmission business
13. "Cinematographic works" shall mean the creative production in which a series of images (regardless of whether or not accompanied by sound) are collected, and which can be played by means of mechanical or electronic devices and can be seen or heard
14. "Producers of cinematographic works" shall mean the persons who plan and take responsibility for the production of a cinematographic work
15. "Works of applied art" shall mean artistic works that may be reproduced in the same shape on articles and whose originality is distinguishable from the articles used, and shall include designs, etc.;
16. "Works of computer programs" shall mean expressions of a series of statements or instructions used directly or indirectly in a computer or other devices (hereinafter referred to as "computer, etc.") which have an information processing ability in order to obtain a certain result
17. "Compilation" shall mean a collection of works or symbols, letters, sounds, images and materials in other formats (hereinafter referred to as "subject matters"), including databases
18. "Compilation works" shall mean compilations of a creative nature in terms of selection, arrangement or composition of its subject matters
19. "Database" shall mean a compilation that arranges or composes subject matters systematically so that one can individually access or search such subject matters
20. "Database maker" shall mean a person who makes a considerable investment in terms of human or material resources for production of a database, or renewal, verification or supplement (hereinafter referred to as "renewal, etc.") of its subject matters

21. "Joint works" shall mean works created jointly by two or more persons and their respective contributions cannot be separately exploited
22. "Reproduction" shall mean the fixation of works or the reproduction of works in tangible media of expression by means of printing, photographing, copying, sound or visual recording or other means in the case of architectural works, it shall include carrying out a construction according to the models or plans for the construction
23. "Distribution" shall mean the transfer by assignment or rental of the original or reproduction of works, etc. to the public with or without payment by the public
24. "Publication" shall mean the reproduction and distribution of works or phonograms to meet the public demand
25. "Making a work public" shall mean to make a work available to the public by means of performance, communication to the public, exhibition, or by other means and to publish a work
26. "Copyright trust services" shall mean a line of business in which one holds in trust and continuously manages the rights on behalf of the persons who hold the rights of owners of author's property rights, publication rights, neighboring rights or rights of database maker, and shall include a general agent concerning exploitation of works, etc.;
27. "Copyright agency or brokerage services" shall mean a line of business in which one acts as an agent or a broker on behalf of the persons who hold the rights of owners of author's property rights, publication rights, neighboring rights, or rights of database maker with regard to the exploitation of the rights
28. "Technological protection measures" shall mean technologic measures applied by a rights holder or a person who is delegated by such rightsholder to effectively prevent or restrain the infringement of copyrights and other rights protected according to this Act
29. "Right management information" shall mean information which falls under any of the following subparagraphs, or numbers or symbols representing such information, each of which is attached to the original or reproduction of works, etc. or is accompanied by performance or communication to the public thereof
- a. Information for identification of works, etc.
 - b. Information for identification of authors, owners of author's property rights, publication rights or neighboring rights, or database makers and
 - c. Information related to the utilization method and conditions of works, etc.
30. "Online service provider" shall mean a person who provides others with services that reproduce or interactively transmit works, etc. through information and telecommunication networks (which refer to such information and telecommunication networks as provided in Subparagraph 1, Paragraph 1, Article 2 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. hereinafter the same shall apply).
31. "Works made by an employee in the course of his duties" shall mean works made by an employee of a legal person, an organization, or other employer (hereinafter referred to as "legal person, etc.") during the course of his duties, and on the initiative of legal person, etc.
32. "The public" shall mean an unspecified multitude of people (including a specific multitude of people)
33. "Verification" shall mean to verify justifiable rights holders for authorization of exploitation of works, etc.

Article 3(Works of Foreigners)

- (1) The works of foreigners shall be protected in accordance with the treaties to which the Republic of Korea has acceded or which it has ratified.
- (2) the works of foreigners who permanently reside in the Republic of Korea (including stateless persons and the foreign legal persons having their principal office in the Republic of Korea) and foreigners' works which are first published in the Republic of Korea (including works published in the Republic of Korea within thirty days after their publication in a foreign country) shall be protected under this Act
- (3) Even when foreigners' works (excluding foreigners who permanently reside in the Republic of Korea and stateless persons) are to be protected in accordance with the provisions of Paragraphs (1) and (2), if the foreign country concerned do not protect the works of the nationals of the Republic of Korea, their protection in accordance with treaties and this Act may be correspondingly restricted.

CHAPTER 2. RIGHTS OF AUTHORS

SECTION 1. WORKS

Article 4(Examples of Works, etc.)

- (1) The following shall be the examples of works referred to in this Act:
1. Novels, poems, theses, lectures, speeches, plays and other literary works
 2. Musical works
 3. Theatrical works including dramas, dances, pantomimes, and other theatrical works
 4. Paintings, calligraphic works, sculptures, prints, crafts, works of applied art, and other artistic works
 5. The architecture, architectural models, plans, and other architectural works
 6. Photographic works (including other works produced by similar methods)
 7. Cinematographic works
 8. Maps, charts, design drawings, sketches, models and other diagrammatic works and
 9. Computer program works.
- (2) Matters necessary for the protection of computer program works in accordance with Subparagraph 9 of Paragraph (1) shall be provided for in a separate Act.

Article 5(Derivative Works)

- (1) A creation produced by means of translation, arrangement, alteration, dramatization, cinematization, etc. of an original work (hereinafter referred to

as "derivative work") shall be protected as an independent work.

(2) The protection of a derivative work shall not prejudice the rights of the author of the original work.

Article 6(Compilation Works)

(1) Compilation works shall be protected as independent works.

(2) The protection of a compilation work shall not prejudice the copyright of the subject matters constituting such compilation work and other rights protected pursuant to this Act.

Article 7(Works not Protected)

No work which falls under any of the following Subparagraphs shall be protected under this Act:

1. Constitution, laws, treaties, decrees, ordinances and rules
2. Notices, public notifications, directions and others similar to them issued by the state or local government
3. Judgments, decisions, orders, or rulings of courts, as well as rulings and decisions made by the administrative appeal procedures, or other similar procedures
4. Compilations or translations of works as referred to in Subparagraphs 1 to 3 which are produced by the state or local government and
5. Current news reports which transmit simple facts, and

SECTION 2. AUTHORS

Article 8(Presumption of Authorship, etc.)

(1) Any person who falls under any of the following Subparagraphs shall be presumed to be an author:

1. A person whose well-known real name or pseudonym (which refers to pen-, stage-, or screen-name, pseudonym, abbreviation, etc. herein hereinafter the same shall apply.) is indicated as the name of the author in the customary manner on the original or reproduction of a work and
2. A person whose real name or well-known pseudonym is indicated as the author in the public performance or communication to the public of a work.

(2) If a work on which the name of the author as prescribed under any of the Subparagraphs of Paragraph (1) is not indicated, the person who is indicated as publisher or public performer shall be presumed to have the copyright.

Article 9(Authorship of a Work Made by an Employee in the Course of His Duties)

The authorship of a work which is made by an employee of legal person, etc. during the course of his duties and is made public under the name of

such a legal person, etc. as the author shall be attributed to that legal person, etc., unless otherwise stipulated in a contract, work regulation, etc.

Article 10(Copyright)

(1) The author shall enjoy the rights prescribed in accordance with Articles 11 to 13 (hereinafter referred to as "author's moral rights") and the rights prescribed under Articles 16 to 22 (hereinafter referred to as "author's property rights").

(2) The copyright shall commence from the time of completing a work regardless of the fulfillment of any procedure or formalities.

SECTION 3. AUTHOR'S MORAL RIGHTS

Article 11(Right to Make Public)

(1) The author shall have the right to decide whether or not to make his work public.

(2) If an author has transferred by assignment his property rights in a work not yet being made public pursuant to Article 45, or authorized to exploit pursuant to Article 46, he shall be presumed to have given the other party his consent to make it public.

(3) If an author has transferred by assignment the original of his work of art, architectural work or photographic work (hereinafter referred to as "work of art, etc."), he shall be presumed to have given the other party his consent to make it public in the manner of exhibition.

(4) If a derivative work or compilation work has been made public with the consent of the author, its original shall be considered also to have been made public.

Article 12(Right to Indicate the Author's Name)

(1) The author shall have the right to indicate his real name or pseudonym on the original, reproduction, or publication media of his work.

(2) In the absence of any intention of the author to the contrary, the person using his work shall indicate the name of the author in the same manner as that already adopted by the author, unless such indication is deemed unavoidable in light of the nature of a work, and the purpose and manner of its exploitation etc.

Article 13(Right to Preserve the Integrity)

(1) The author shall have the right to preserve the integrity of the content, form and title of his work.

(2) The author shall not make an objection to a modification falling under any of the following Subparagraphs provided that the substantial modification has not been made:

1. In the case where a work being used in accordance with Article 25, the modification of expression within the limit as deemed unavoidable for the purpose of school education
2. Extension, rebuilding or other forms of alteration of an architecture and
3. Other modifications within the limit as deemed unavoidable in the light of the nature of a work, and the purpose and manner of its exploitation etc.

Article 14(Inalienability of Author's Moral Rights)

- (1) Author's moral rights shall belong exclusively to the author.
- (2) Even after the death of the author, no person who exploits his work shall commit an act which would be prejudicial to author's moral rights if he were alive provided that such an act is deemed to have not defamed the honor of the author in light of the nature and extent of the act, and in view of the prevailing social norms.

Article 15(Author's Moral Rights in Joint Works)

- (1) Author's moral rights in a joint work may not be exercised without the unanimous agreement of all the authors concerned. In this case, each of the authors may not, in bad faith, prevent the agreement from being reached.
- (2) Authors of a joint work may designate one of them as a representative in the exercise of their moral rights.
- (3) Limitations imposed on the representation mentioned pursuant to the Paragraph (2) shall not be effective against a bona fide third person.

SECTION 4. AUTHOR'S PROPERTY RIGHTS

SUBSECTION 1. TYPES OF AUTHOR'S PROPERTY RIGHTS

Article 16(Right of Reproduction)

The author shall have the right to reproduce his work.

Article 17(Right of Public Performance)

The author shall have the right to perform his work publicly.

Article 18(Right of Communication to the public)

The author shall have the right to communicate his work to the public.

Article 19(Right of Exhibition)

The author shall have the right to exhibit the original or reproduction of his work of art, etc.

Article 20(Right of Distribution)

The author shall have the right to distribute the original or reproduction of his work unless the original or reproduction of a work is offered for transaction by means of selling, etc. with the authorization of the owner of the property rights.

Article 21(Right of Rental)

Notwithstanding the conditional provision of Article 20, the author shall have the right to rent a commercial phonogram for profit-making purposes.

Article 22(Right of the Production of Derivative Works)

The author shall have the right to produce and exploit a derivative work which is based on his original work.

SUBSECTION 2. LIMITATIONS TO AUTHOR'S PROPERTY RIGHTS

Article 23(Reproduction for Judicial Proceedings, etc.)

It shall be permissible to reproduce a work if and to the extent deemed necessary for the purpose of judicial proceedings and of internal use in the legislative or administrative organs provided that such reproduction does not unreasonably prejudice the interests of the owner of author's property rights in the light of the nature of the work as well as the number of copies and the nature of reproduction.

Article 24(Use for the Purpose of Political Speeches, etc.)

It shall be permissible to exploit, by any means, political speeches delivered in public and statements made in the courts of law, the National Assembly, or municipal assemblies unless the exploitation is made after editing the speeches or statements of the same author.

Article 25(Use for the Purpose of School Education, etc.)

(1) A work already being made public may be reproduced in textbooks to the

extent deemed necessary for the purpose of education at high schools, their equivalents or lower level schools.

(2) Educational institutions established by special laws, the Elementary and Secondary Education Act, or the Higher Education Act or operated by the state or local government may reproduce, perform publicly, broadcast or conduct interactive transmission a part of a work already being made public to the extent deemed necessary for the purpose of class teaching. Provided that the use of the whole parts of a work is deemed inevitable in the light of the nature of a work, and the purpose and manner of its exploitation, etc., use of the whole parts of the work shall be permissible.

(3) It shall be permissible for a person who receives education in the educational institutions described in Paragraph (2) to reproduce or interactively transmit the work already being made public within the limit regulated in paragraph (2) to the extent deemed necessary for the purpose of class teaching.

(4) A person who intends to exploit a work pursuant to Paragraphs (1) and (2) shall pay compensation to the owner of author's property rights according to the criteria for compensation as determined and published by the Minister of Culture and Tourism. Reproduction, public performance, broadcasting or interactive transmission of a work done at high schools, their equivalents or lower level schools as prescribed under Paragraph (2) is not obliged to pay compensation.

(5) The right to be compensated pursuant to Paragraph (4) shall be exercised by an organization which satisfies all of the following conditions and is regulated by the Minister of Culture and Tourism. The consent of the organization shall be necessary when the Minister of Culture and Tourism appoints such organization. The organization shall:

1. Consist of the persons who hold the right to receive compensation (hereinafter referred to as "compensation right holder");
2. Not be for the purpose of profit making and
3. Have ample capability to carry out its duties including collecting, distributing the compensation.

(6) When a compensation right holder requests, the organization regulated under Paragraph (5) may not deny exercising the right of a compensation right holder even if the compensation right holder is not a member of the organization. In this case, the organization shall have the authority to exercise judicial or non-judicial acts with regard to the right under its name.

(7) The Minister of Culture and Tourism may cancel the appointment in cases where the organization under Paragraph (5) falls under any of the followings

1. Where an organization fails to satisfy the conditions stipulated in Paragraph (5);
2. Where an organization violates the work regulation with regard to compensation and
3. where it is concerned that the interest of a compensation right holder could be harmed due to the organization's suspension of its duties with regard to compensation for a considerable period of time.

(8) The organization regulated under Paragraph (5) may use the undistributed compensations, the date of notification of which has been made three or more years ago, for the public interest after obtaining authorization of the Minister of Culture and Tourism.

(9) The necessary matters for appointment and cancellation of the organization, work regulations, notification of distribution of compensation,

authorization of exploitation of undistributed compensation for the public interest, and etc. in accordance with Paragraphs 5, 7 and 8 shall be determined by the Presidential Decree.

(10) In the case where an educational institution conducts interactive transmission pursuant to Paragraph (2), necessary measures determined under the Presidential Decree including reproduction prevention measures shall be taken in order to prevent infringement on copyright and the rights protected under this Act.

Article 26(Use for Current News Report)

In the case of reporting current events by means of broadcasts, newspapers or by other means, it shall be permissible to reproduce, distribute, perform publicly, or communicate to the public a work seen or heard in the course of the event, to the extent justified by the information purpose.

Article 27(Reproduction, etc of Current News Articles and Editorials)

Current new articles and editorials about politics, economy, society, culture and religions published in the newspapers and Internet newspapers pursuant to Article 2 of Act on the Guarantee of Freedom and Functions of Newspapers, etc. or in the news agency under the provisions of Article 2 of News Agency Promotion Act may be reproduced, distributed, or broadcasted by other media organizations, unless any indications of prohibition of exploitation exist.

Article 28(Quotations from Works Made Public)

It shall be permissible to make quotations from a work already being made public provided that they are within a reasonable limit for news reporting, criticism, education and research, etc. and compatible with fair practice.

Article 29(Public Performance and Broadcasting for Non-profit Purposes)

(1) It shall be permissible to perform publicly or broadcast a work already being made public for non-profit purposes and without charging any fees to audience, spectators or third persons provided that the performers concerned are not paid any remuneration for such performances.

(2) Commercial phonograms or cinematographic works may be reproduced and played for the public, if no admission fee is charged to audience or spectators, except the cases as prescribed by the Presidential Decree.

Article 30(Reproduction for Private Use)

It shall be permissible for a user to reproduce by himself a work already being made public for the purpose of his personal, family or other similar

uses within a limited circle provided that this shall not apply to the reproduction by a photocopying machine that is set up for the public use.

Article 31 (Reproduction, etc. in Libraries, etc.)

(1) Libraries under the Libraries and Reading Promotion Act and the facilities (including the heads of the relevant facilities hereinafter referred to as "libraries, etc.") as prescribed by Presidential Decree among those facilities which provide books, documents, records and other materials ("hereinafter referred to as "books, etc.") for public use may reproduce the works by utilizing books, etc. held by the libraries, etc. (in the case of Subparagraph 1, including the books, etc. reproduced by or interactively transmitted to the libraries, etc. in accordance with the provision of Paragraph 3 hereof) in any of the following cases: provided that in the case of Subparagraphs 1 and 3, the works may not be reproduced in digital format.

1. Where, at the request of a user and for the purpose of research and study, a single copy of a part of books, etc. already made public is provided to him

2. Where it is necessary for libraries, etc. to reproduce books, etc. for the purpose of preserving such books, etc. and

3. Where libraries, etc. provide other libraries etc. with a reproduction of books, etc. that are out of print or scarcely available for similar reasons at the request of other libraries etc. for their collection purpose.

(2) Libraries, etc. may reproduce or interactively transmit their books, etc. to allow users to peruse them in such libraries, etc. by using devices capable of information processing such as computers, etc. In such case, the number of users who may peruse them at the same time shall not exceed the number of copies of such books, etc. held by the libraries, etc. or authorized to be used by the persons with copyrights or other rights protected according to this Act.

(3) Libraries, etc. may reproduce or interactively transmit their books, etc. to allow users in other libraries, etc. to peruse them by using computers, etc.; provided that, in those cases where all or a part of the books, etc. have been published for sale, such books, etc. shall not be reproduced or interactively transmitted unless a period of five years has elapsed since the publication date of such books, etc.

(4) In reproducing books, etc. pursuant to Subparagraph 2 of Paragraph (1), Paragraph (2) or Paragraph (3), libraries, etc. shall not reproduce such books, etc. in digital format if they are being sold in digital format.

(5) In reproducing books, etc. in digital format pursuant to Subparagraph 1 of Paragraph (1), or reproducing or interactively transmitting books, etc. for the purpose of allowing perusal inside other libraries, etc. pursuant to Paragraph (3), libraries, etc. shall pay the owners of authors' property rights compensation in accordance with the standards determined and published by the Minister of Culture provided that said provision shall not apply to books, etc. (excluding those books, etc. which are, in part or in whole, published for a sales purpose) regarding which the state, local governments or schools as provided in Article 2 of the Higher Education Act hold authors' property rights.

(6) The regulation regarding compensation in Paragraph 5 to Paragraph 9 of Article 25, shall apply mutatis mutandis to foregoing Paragraph 5 with

regard to distribution of compensation, etc.

(7) If books, etc. are reproduced or interactively transmitted in digital format pursuant to the foregoing Paragraphs (1) through (3), libraries, etc. shall take necessary measures as provided by Presidential Decree such as reproduction prevention measures in order to prevent infringement of copyrights and other rights protected under this Act.

Article 32(Reproduction for Examination Questions)

It shall be permissible to reproduce a work already being made public in questions of entrance examinations or other examinations of knowledge and skills, to the extent deemed necessary for that purpose provided that it is for non-profit purposes.

Article 33 (Reproduction, etc. for Visually Impaired Persons, etc.)

(1) Published works may be reproduced and distributed in Braille for visually impaired persons, etc.

(2) The facilities (including the heads of relevant facilities) as prescribed by Presidential Decree among facilities for the purpose of promoting the welfare of visually impaired persons, etc. may record a published oral or written work, or reproduce, distribute or interactively transmit such work in a recording form for the exclusive use of visually impaired persons, etc. in order to provide such for the use of visually impaired persons, etc. without using it, in any way, for profit-making purposes.

(3) The scope of visually impaired persons, etc. as provided in the foregoing Paragraphs (1) and (2) shall be determined by Presidential Decree.

Article 34(Ephemeral Sound or Visual Recordings by Broadcasting Organizations)

(1) Broadcasting organizations with the authority to broadcast a work may make ephemeral sound or visual recordings of the work for the purpose of their own broadcasting and by the means of their own facilities.

(2) Sound or visual recordings made pursuant to Paragraph (1) may not be kept for a period exceeding one year from the date of sound or visual recording, unless they are kept as materials for public records at places as prescribed by the Presidential Decree.

Article 35(Exhibition or Reproduction of Works of Art, etc.)

(1) The owner of the original of a work of art, etc. or a person who has obtained the owner's authorization, may exhibit the works in its original form provided that this provision shall not apply to the case of that the work of art is to be permanently exhibited in a street or park, outside the wall of a building, or other places open to the public.

(2) Works of art, etc. exhibited at all times at an open place as referred to in the proviso of Paragraph (1) may be reproduced and used by any means,

except those falling under any of the following cases:

1. Where a building is reproduced in another building
 2. Where a sculpture or a painting is reproduced in another sculpture or a painting
 3. Where the reproduction is made in order to exhibit permanently at an open place, as prescribed under Paragraph (1); and
 4. Where the reproduction is made for the purpose of selling its copies.
- (3) A person who exhibits works of art, etc. under Paragraph (1), or who intends to sell originals of works of art, etc. may reproduce and distribute them in a pamphlet for the purpose of explaining and introducing them.
- (4) A portrait or a similar photographic work produced by consignment shall not be exploited without the consent of the consignor.

Article 36 (Use by Means of Translation, etc.)

- (1) If a work is used in accordance with Articles 25, 29, or 30, the work may be used by means of translation, arrangement, or adaptation.
- (2) If a work is used in accordance with Articles 23, 24, 26, 27, 28, 32, or 33, the work may be used by means of translation.

Article 37 (Indication of Sources)

- (1) A person who uses a work pursuant to this subsection shall indicate its sources, except the cases as prescribed under Articles 26, 29 to 32, or 34.
- (2) The indication of the sources shall be made clearly in the manner and to the extent deemed reasonable by the situation in which the work is used. If the real name or pseudonym of the author of a work is indicated, such real name or pseudonym shall be indicated.

Article 38 (Relationship with Author's Moral Rights)

No provisions of this subsection may be interpreted as affecting the protection of author's moral rights.

SUBSECTION 3. DURATION OF AUTHOR'S PROPERTY RIGHTS

Article 39 (Principles of Protection Period)

- (1) Author's property rights in a work shall continue to subsist during the life time of an author and until the end of a period of fifty years after the death of an author, unless otherwise provided in this Subsection. Author's property rights in a work which is first being made public forty years after the death of an author and before a period of fifty years has elapsed shall continue to subsist for a period of ten years after it is being made public.
- (2) Author's property rights in a joint work shall continue to subsist for a period of fifty years after the death of the last surviving author.

Article 40(Period of Protection for Anonymous and Pseudonymous Works)

(1) Author's property rights in an anonymous or the pseudonymous work, unless the pseudonym is widely known, shall continue to subsist for a period of fifty years after it has been made public provided that within such period, if there are reasonable grounds for recognizing a date fifty years after the death of the author, such property rights shall be deemed to have lapsed fifty years after the death of the author.

(2) The provision in Paragraph (1) shall not apply to any of the following cases:

1. Where the real name or the well-known pseudonym of an author is revealed during the period as referred to in Paragraph (1); and
2. Where the real name of an author is registered pursuant to under Paragraph (1) of Article 53 during the period as referred to in Paragraph (1)

Article 41(Period of Protection for Works made by an Employee in the Course of His Duties)

Authors property rights of works made by an employee in the course of his duties shall continue to subsist for a period of fifty years after it has been made public provided that if it has not been made public within fifty years after its creation, authors' property rights shall continue to subsist for a period of fifty years after its creation.

Article 42(Period of Protection for Cinematographic Works)

Notwithstanding the provisions of the foregoing Articles 39 and 40, authors' property rights in cinematographic works shall continue to remain in effect for a period of fifty years from the time that such works are made public provided that, in those cases where such works are not made public within fifty years after their creation, such rights shall continue to remain in effect for a period of fifty years from the time of their creation.

Article 43(The Time When Serial Publications, etc. Have Been Made Public)

(1) The time when a work has been made public pursuant to the conditional provisions of Paragraph (1) of Article 39, Paragraph (1) of Article 40, or Article 41, shall be determined by making public of each volume, issue or installment in the case of works which are being made public in the form of volumes, issues, or installments, or by making public of the last part in the case of works which are being made public in parts in a successive manner.

(2) In the case of works to be completed by making public in parts in a successive manner, the last part already being made public shall be considered to be the last one under the Paragraph (1) if the next part is not

being made public before the expiration of a period of three years following the making public of the preceding part.

Article 44 (Initial Date of Protection Period)

In the case of calculating the initial date of the protection period of authors' property rights as prescribed in this subsection, the initial date of protection shall commence from the beginning of the year following the date when the author died, the work is created, or is made public.

SUBSECTION 4. TRANSFER, EXERCISE AND EXPIRY OF AUTHOR'S PROPERTY RIGHTS

Article 45 (Transfer of Author's Property Rights)

(1) Author's property rights may be transferred by assignment in whole or in part.

(2) Where author's property rights are transferred by assignment in whole, the right of the production and exploitation of a derivative work as prescribed under Article 22 shall be presumed not to be included in the transfer, unless otherwise stipulated.

Article 46 (Authorization to Exploit Works)

(1) The owner of author's property rights may grant another person authorization to exploit the work.

(2) The person who obtained such authorization shall be entitled to exploit the work in such a manner and within the limit of such conditions so authorized pursuant to Paragraph 1.

(3) The right of exploitation as authorized may not be transferred by assignment to the third party without the consent of the owner of author's property rights pursuant to Paragraph 1.

Article 47 (Author's Property Rights on Which the Right of Pledge is Established)

The right of pledge may be exercised with respect to money or the like accruing from the transfer by assignment of author's property rights or the exploitation of the work (including remuneration for the establishment of the right of publication); provided that payment or delivery is preceded by the seizure of the right to receive money or the like mentioned above.

Article 48 (Exercise of Author's Property Rights in Joint Works)

(1) Author's property rights in a joint work may not be exercised without the unanimous agreement of all the owners of author's property rights. Each

owner of author's property rights shall not be entitled to transfer by assignment or pledge his share of author's property rights without the consent of the other author's. Each owner may not, without reasonable justification, prevent the agreement from being reached or refuse the consent in bad faith.

(2) The profit accruing from the exploitation of a joint work may be apportioned among authors according to the degrees of contribution by each author, unless otherwise stipulated. If the degree of each contribution is not clear, the profit may be equally apportioned to all the authors.

(3) The owner of author's property rights in a joint work may renounce his share. In the case of renunciation and death of the owner of author's property rights without heir, his share may be apportioned among other authors according to the ratio of their holding shares.

(4) The provisions of Paragraphs (1) and (2) of Article 15 shall apply mutatis mutandis to the exercise of author's property rights in a joint work.

Article 49 (Expiry of Author's Property Rights)

Author's property rights shall expire in any of the following cases:

1. Where, after the author's death without heir, author's property rights are to belong to the state according to provisions of the Civil Law and other laws and
2. Where, after the dissolution of a legal person or an organization who is the owner of author's property rights, author's property rights are to belong to the state according to the provisions of the Civil Law and other laws.

SECTION 5. EXPLOITATION OF WORKS UNDER LEGAL LICENSE

Article 50 (Exploitation of Works in Which the Owner of Author's Property Rights is Not Known)

(1) Where any person, despite his considerable efforts in accordance with the criteria as prescribed by the Presidential Decree, could not identify the owner of author's property rights in works being made public (except foreigner's works), or his place of residence and therefore is unable to obtain the authorization of the author for its exploitation, he may exploit the work on obtaining the approval of the Minister of Culture and Tourism as prescribed by the Presidential Decree, and depositing a sum of compensation money according to the criteria as determined by the Minister of Culture and Tourism.

(2) The person who exploits a work under the provision of Paragraph (1) shall indicate the fact that the exploitation is made with the approval and the date when the approval is issued.

(3) Where a work which already obtained approval of the Minister of Culture and Tourism for its exploitation pursuant to Subparagraph (1) becomes the object of the approval of the same kind at a later time, the procedure of making considerable efforts in accordance with the criteria as prescribed by the Presidential Decree pursuant Subparagraph 1 may be omitted unless the owner of author's property rights lodges an objection in accordance with the

procedure prescribed under the Presidential Decree before approval for legal license for the work is granted.

(4) The Minister of Culture and Tourism shall notify the content of legal license on telecommunication networks in accordance with the Presidential Decree.

Article 51 (Broadcasting of Works Being Made Public)

Where a broadcasting organization which intends to broadcast a work already being made public for the sake of the public benefit has negotiated with the owner of author's property rights but failed to reach an agreement, it may broadcast the work on obtaining the approval of the Minister of Culture and Tourism as prescribed by the Presidential Decree, and paying to the owner of author's property rights or depositing a sum of compensation money according to the criteria as determined by the Minister of Culture and Tourism.

Article 52 (Production of Commercial Phonograms)

If a commercial phonogram has been sold for the first time in this country and after the expiration of a period of three years from the date of the first sale and if any person who intends to produce a commercial phonogram by recording works already being recorded on such a phonogram has negotiated with the owner of author's property rights but failed to reach an agreement, he may produce the phonogram on obtaining the approval of the Minister of Culture and Tourism as prescribed by the Presidential Decree, and paying to the owner of author's property rights or depositing a sum of compensation money according to the criteria as determined by the Minister of Culture and Tourism.

SECTION 6. REGISTRATION AND VERIFICATION

Article 53 (Registration of Copyright)

(1) The author may register the items of the following Subparagraphs:

1. Real name, pseudonym (limited to a case where a pseudonym was used when a work was made public), nationality, domicile or temporary domicile of the author
2. Title, category and date of creation
3. Whether a work was made public, or the country and date in which the work was first made public and
4. Other items as prescribed by the Presidential Decree.

(2) In the absence of any intention of the author to the contrary, the person designated by the will of the author or his heir may have such a name registered after the death of the author as prescribed under each Subparagraph of Paragraph (1).

(3) The person whose real name is registered as the author in accordance with the provisions of Paragraphs (1) and (2) shall be presumed to be the

author of the registered work. The work whose date of creation or having first been made public is registered shall be presumed to have been created or first made public on the date registered.

Article 54(Registration and Effect of Change of Rights)

The following matters may be registered and shall not be effective against any third party without the registration:

1. Transfer by assignment of author's property rights (except that by inheritance or other successions in general) or the restriction on the disposal of author's property rights and
2. Establishment of the right of pledge on author's property rights, transfer, alteration, or expiry of author's property rights, or the restriction on the disposal of author's property rights.

Article 55(Procedures, etc. for Registration)

(1) The registration as prescribed pursuant to Articles 53 and 54 shall be made by the Minister of Culture and Tourism on the copyright register.

(2) The Minister of Culture and Tourism may return the registration falling under any of the following cases provided that this shall not apply to the case where the defects of the registration could be corrected and the applicant corrects them on the day of application.

1. Where the applied registration is not the one to be registered and
2. Where the applied registration does not follow the format as prescribed by the Ordinance of the Minister of Culture and Tourism or does not attach other necessary resources or documents.

(3) The Minister of Culture and Tourism shall issue or notify on the telecommunication networks the registration bulletins concerning the registration made on the copyright register in accordance with the provisions of Paragraph (1), and in the case when anyone requests, the Minister of Culture and Tourism shall have the copyright register inspected by applicants or shall issue the copy of the copyright register to applicants.

(4) The necessary matters concerning registration, the return of applied registration, the issuance or notification of registration bulletins, the inspection of the copyright register and the issuance, etc of the copy of the copyright register in accordance with the provisions of paragraphs (1) and (3) shall be prescribed by the Presidential Decree.

Article 56(Verification of the Right Holders, etc)

(1) The Minister of Culture and Tourism may appoint the organization for verification to protect the safety and faith of transactions of works, etc.

(2) The appointment of the organization for verification and the verification procedures in accordance with Paragraph (1) shall be decided by the Presidential Decree.

(3) The organization pursuant to Paragraph (1) may collect fees in respect to the verification and the amount shall be determined by the Minister of

Culture and Tourism.

SECTION 7. RIGHT OF PUBLICATION

Article 57(Establishment of the Right of Publication)

(1) The owner who has the right to reproduce and distribute a work (hereinafter referred to as "owner of the right of reproduction") may establish a right of publication (hereinafter referred to as "right of publication") for a person who intends to publish the work in writing, drawing, or other similar means.

(2) The person for whom the right of publication (hereinafter referred to as "owner of the right of publication") pursuant to Paragraph (1) has been established shall have the right to publish the original text of the work according to the terms of the contract of establishment.

(3) If the right of pledge is established on the right of reproduction of a work, the owner of the right of reproduction can establish the right of publication only with the authorization of the owner of the right of pledge.

Article 58(Obligations of the Owner of the Right of Publication)

(1) Unless otherwise stipulated in the contract of establishment, the owner of the right of publication shall have the obligation to publish the work within the period of nine months after the date when he received from the owner of the right of reproduction manuscripts or other similar materials which are necessary for the reproduction of the work.

(2) Unless otherwise stipulated in the contract of establishment, the owner of the right of publication has the obligation to continue to publish the work in its original form in accordance with customary practice.

(3) Unless otherwise stipulated, the owner of the right of publication has the obligation to indicate a notice of the owner of the right of reproduction in each copy as stipulated by the Presidential Decree.

Article 59(Revision, Addition or Reduction of a Work)

(1) If the owner of the right of publication publishes a new edition of the work which is the object of its right, the author may revise, add or reduce the contents of his work to the extent that it is justified.

(2) If the owner of the right of reproduction intends to make a new edition of the work which is the object of his right, he shall notify the author of his intention in advance.

Article 60(Duration of the Right of Publication)

(1) The duration of the right of publication shall be a period of three years from the date of its first publication, unless otherwise stipulated in the contract of establishment.

(2) If the author of the work which is the object of the right of publication dies within the duration of the right of publication, the owner of the right of reproduction, notwithstanding the provision of Paragraph (1), may reproduce the work in a complete collection of works or other compilation work, or publish the work by separating it from a complete collection of works or other compilation work.

Article 61(Notification of the Termination of the Right of Publication)

(1) If the owner of the right of publication has not discharged his obligation prescribed under Paragraphs (1) or (2) of Article 58, the owner of the right of reproduction may call on him to fulfill his obligation in a prescribed period of not shorter than six months. If the owner of the right of publication fails to do so during such period, the owner of the right of reproduction may notify him of the termination of his right of publication.

(2) The owner of the right of reproduction may immediately notify the owner of the right of publication of the termination of the right of publication, notwithstanding the provision of Paragraph (1), when it is impossible for the owner of the right of publication to publish the work, or it is obvious that he has no intention to do so.

(3) When the termination of the right of publication is notified as prescribed under the provision of Paragraph (1) or (2), the right of publication is presumed to have been terminated on the date the owner of the right of publication has received the notification.

(4) In the case of Paragraph (3), the owner of the right of reproduction may at any time claim to the owner of the right of publication for restitution or compensation for damages accruing from the suspension of publication of the work.

Article 62(Distribution of Copies of a Work after the Termination of the Right of Publication)

After the termination of the right of publication on account of the expiry of the duration of the right or other reasons, the owner of the right of publication shall not distribute copies of a work reproduced within the duration of the right, except in the following cases:

1. Where otherwise stipulated in the contract of establishment and
2. Where he has already paid any remuneration to the owner of the right of reproduction for publication within the duration of the right of publication, and he distributes number of copies equivalent to such payment.

Article 63(Transfer by Assignment of, and Limitations to, the Right of Publication, etc.)

(1) The right of publication may not be transferred by assignment or pledged without the consent of the owner of the right of reproduction.

(2) The provisions of Article 23, Paragraphs (1) to (3) of Article 25, Article 26 to 28, Article 30 to 33, Paragraphs (2) and (3) of Article 35 shall apply mutatis mutandis to the reproduction of works which are the object of the

right of publication. In such cases, the term "owner of author's property rights" in Article 22 shall read as "owner of the right of publication."

(3) The provisions of Articles 53 through 55 shall apply mutatis mutandis to the registration (including the registration of the establishment of the right of publication) of the right of publication. In such cases, the term "copyright register" in Article 55 shall read as "publication right register".

CHAPTER 3. NEIGHBORING RIGHTS

SECTION 1. GENERAL RULES

Article 64 (Performances, phonograms, and broadcasts protected)

Performances, phonograms and broadcasts satisfying any conditions of any of the following Subparagraphs shall be protected as neighboring rights under this Act:

1. Performances

- a. Performances conducted by nationals of the Republic of Korea (including legal persons established pursuant to the laws and regulations of the Republic of Korea, and foreign legal persons maintaining their principal offices in the Republic of Korea hereinafter the same shall apply),
- b. Performances protected under the international treaties to which the Republic of Korea has acceded or which it has ratified
- c. Performances fixed in phonograms as referred to in Subparagraph (2) and
- d. Performances transmitted by broadcasts as referred to in Subparagraph (3) (except those included in sound or visual recordings before transmission).

2. Phonograms

- a. Phonograms manufactured by nationals of the Republic of Korea
- b. Phonograms in which sounds have been fixed for the first time in the Republic of Korea and
- c. Phonograms in which sounds have been fixed for the first time in a foreign country party to the treaties to which the Republic of Korea has acceded or which it has ratified and thus protected under such treaties.
- d. Phonograms protected in accordance with the treaties which the Republic of Korea has joined in or acceded to and of which producers are the nationals of the contracting parties of those treaties (including any legal person established pursuant to the laws and regulations of the contracting party and any legal person the main office of which is located in the contracting party).

3. Broadcasts

- a. Broadcasts made by broadcasting organizations which are nationals of the Republic of Korea
- b. Broadcasts made from broadcasting facilities located in the Republic of Korea and
- c. Broadcasts made by broadcasting organization which are nationals of a foreign country, from broadcasting facilities located in a country party to the

treaties to which the Republic of Korea has acceded or which it has ratified and thus protected under such treaties.

Article 65(Relationship with Copyright)

The provisions of the Articles in this Chapter shall not be construed to have effects on copyright.

SECTION 2. RIGHTS OF PERFORMERS

Article 66(Right to Indicate the Performer's Name)

- (1) The performer shall have the right to indicate his real name or pseudonym on the performance or reproduction of his performance.
- (2) In the absence of any intention of the performer to the contrary, the person using his work shall indicate the name of the performer in the same manner as that already adopted by the performer, unless such indication is deemed unavoidable in light of the nature of a work as well as the purpose and manner of its exploitation.

Article 67(Right to Preserve the Integrity)

The performer shall have the right to preserve the integrity of the content, form and title of his work, unless such indication is deemed unavoidable in light of the nature of a work as well as the purpose and manner of its exploitation.

Article 68(Inalienability of Performer's Moral Rights)

The rights prescribed in Article 66 and 67 (herein referred to as "performer's moral rights") shall belong exclusively to the performer.

Article 69(Right of Reproduction)

Performers shall have the right to reproduce their performances.

Article 70(Right of Distribution)

Performers shall have the right to distribute the reproduction of their performances unless the reproduction of his performance is offered for transaction by means of selling, etc. with the authorization of the performer.

Article 71(Right of Rental)

Notwithstanding the conditional provision of Article 70, Performers shall have the right to rent a commercial phonogram in which his performance had been recorded for profit-making purposes.

Article 72(Right of Public Performance)

Performers shall have the right to perform their unfixed performances publicly, unless the performances are broadcasted performances.

Article 73(Right of Broadcasting of Performances)

Performers shall have the right to broadcast their performances, except those recorded with the authorization of performers.

Article 74(Right of Interactive Transmission)

Performers shall have the right to transmit their works in an interactive manner.

Article 75(Compensation by Broadcasting Organizations to Performers)

- (1) When a broadcasting organization makes a broadcast by using commercial phonograms in which performances are recorded, it shall pay reasonable compensation to the performers provided that this shall not apply to the performers who are foreigners whose countries do not admit the compensation pursuant to this Paragraph to the performers with the nationality of the Republic of Korea.
- (2) The provisions of Paragraph (5) to (9) of Article 25 shall apply mutatis mutandis to the payment of compensation, etc. pursuant to Paragraph (1)
- (3) The amount of compensation which the organization as referred to in Paragraph (2) may claim on behalf of the compensation right holder shall be determined each year by the agreement between the organization and the broadcasting organization.
- (4) If the organization and the broadcasting organization fail to reach an agreement as prescribed pursuant to Paragraph (3), the organization or the broadcasting organization may request for conciliation to the Copyright Commission in accordance with the conditions as prescribed by the Presidential Decree.

Article 76(Compensation by Digital Sound Transmission Organization to Performers)

- (1) When a digital sound transmission organization transmits by using

commercial phonograms in which performances are recorded, it shall pay reasonable compensation to the performers.

(2) The provisions of Paragraph (5) to (9) of Article 25 shall apply mutatis mutandis to payment of compensation, etc. according to Paragraph (1)

(3) The amount of compensation which the organization as referred to in Paragraph (2) may claim on behalf of the compensation right holder shall be determined each year by the agreement between the organization and the digital sound transmission organization within a certain period of time regulated by the Presidential Decree.

(4) In cases where the organization and the digital sound transmission organization fail to reach an agreement as prescribed pursuant to Paragraph (3), the amount determined and notified by the Minister of Culture and Tourism shall be paid.

Article 77(Joint Performers)

(1) If more than two performers perform jointly in a chorus, concert, or drama, etc., the rights of performers (excluding the moral rights of performers) as prescribed under this Section shall be exercised by a representative elected by the joint performers provided that if such a representative is not elected, the conductor or director shall exercise the rights.

(2) In exercising the rights of performers in accordance with Paragraph (1), if a solo vocalist or a solo instrument player participated in the performance, the consent of such vocalist or instrument player shall be obtained.

(3) The provisions of Article 15 shall apply mutatis mutandis to the exercise of the moral rights of joint performers.

SECTION 3. RIGHTS OF PRODUCERS OF PHONOGRAMS

Article 78(Right of Reproduction)

Producers of phonograms shall have the right to reproduce their phonograms.

Article 79(Right of Distribution)

Producers of phonograms shall have the right to distribute their phonograms unless reproduction of the phonogram is offered for transaction by means of selling, etc. with the authorization of the owner of the property rights.

Article 80(Right of Rental)

Notwithstanding the conditional provision of Article 79, Producers of phonograms shall have the right to rent a commercial phonogram for profit-making purposes.

Article 81(Right of Interactive Transmission)

Producers of phonograms shall have the right to transmit their phonograms in an interactive manner.

Article 82(Compensation by Broadcasting Organizations to Producers of Phonograms)

(1) If a broadcasting organization makes a broadcast by using commercial phonograms, it shall pay reasonable compensation to the producers of the phonograms provided that this shall not apply to the case that the producers of phonograms who are foreigners whose countries do not admit the compensation pursuant to this Paragraph to the producers of phonograms with the nationality of the Republic of Korea.

(2) The provisions of Paragraph (5) to (9) of Article 25 and Paragraph (3) and (4) of Article 75 shall apply mutatis mutandis to the payment and amount of compensation, etc. according to Paragraph (1)

Article 83(Compensation by Digital sounds transmission organizations to Producers of Phonograms)

(1) If a digital sound transmission organization transmits by using commercial phonograms, it shall pay reasonable compensation to the producers of the phonograms.

(2) The provisions of Paragraph (5) to (9) of Article 25 and Paragraph (3) and (4) of Article 76 shall apply mutatis mutandis to the payment and amount of compensation, etc. pursuant to Paragraph (1)

SECTION 4. RIGHTS OF BROADCASTING ORGANIZATIONS

Article 84(Right of Reproduction)

Broadcasting organizations shall have the right to reproduce their broadcasts.

Article 85(Right of Simultaneous Relay)

Broadcasting organizations shall have the right to relay their broadcasts simultaneously.

SECTION 5. PROTECTION PERIOD OF NEIGHBORING RIGHTS

Article 86(Protection Period)

(1) The protection period of neighboring rights (excluding moral rights of performers hereinafter the same shall apply) shall commence from the time that falls under any of followings:

1. When the performance took place, for performances
2. When the first fixation of sounds was made, for phonograms and
3. When the broadcast was made, for broadcasts.

(2) Neighboring rights shall continue to subsist for a period of 50 years from the beginning of the year following the date

1. When the performance took place, for performances
2. When the phonogram was published, for phonograms provided that if it has not been made public until the lapse of fifty years following the first fixation, it shall be when the first fixation of sounds was made and
3. When the broadcast was made, for broadcasts.

SECTION 6. LIMITATIONS TO, TRANSFERS BY ASSIGNMENT, EXERCISE, ETC. OF RIGHTS

Article 87(Limitations to Neighboring Rights)

The provisions of Article 23, Articles 24, Paragraph (1) to (3) of Article 25, Article 26 to Articles 32, Paragraph (2) of Article 33, Article 34, Article 36 and 37 shall apply mutatis mutandis to the exploitation of performances, phonograms or broadcasts which are the subject matters of neighboring rights.

Article 88(Transfers by Assignment, Exercise, etc. of Neighboring Rights)

The provision of Paragraph (1) of Article 45 shall apply mutatis mutandis to the transfer by assignment of neighboring rights the provisions of Article 46 to the authorization to exploit performances, phonograms and broadcasts the provision of Article 47 to the right of pledge established on neighboring rights and the provision of Article 49 to the expiry of neighboring rights, respectively.

Article 89(Exploitation of Performances, Phonograms and Broadcasts)

The provisions of Article 50 through 52 shall apply mutatis mutandis to the authorization to exploit performances, phonograms and broadcasts.

Article 90(Registration of Neighboring Rights)

The provisions of Articles 53 through 55 shall apply mutatis mutandis to the registration of neighboring rights. In such cases, the term "copyright register" in Article 55 shall read as "neighboring rights register."

CHAPTER 4. PROTECTION OF DATABASE MAKERS

Article 91(Databases under Protection)

(1) Any database of a person who falls under any of the following categories shall be protected under this Act:

1. Nationals of the Republic of Korea and
2. Foreigners protected by treaties that the Republic of Korea has acceded to or signed in connection with a database protection regime.

(2) Even in those cases of foreigners' databases protected pursuant to the provision of the foregoing Paragraph (1), their protection under said treaties and this Act may be correspondingly restricted if a relevant foreign country does not protect the databases of the nationals of the Republic of Korea.

Article 92(Exclusion of Application)

The provisions of this chapter shall not apply to databases which fall under any of the followings:

1. Computer programs which are used for production or renewal, etc., or operation of databases and
2. Databases produced or renewed in order to make wireless or wire communications technically possible.

Article 93(Rights of Database Makers)

(1) A database producer shall retain the rights to the reproduction, distribution, broadcasting or interactive transmission (hereinafter referred to as "reproduction, etc." in this Article) of all or a material part of the relevant database.

(2) The individual subject matters of a database shall not be regarded as a material part of the relevant database as provided in the foregoing Paragraph (1) provided that even in the case of reproduction, etc. of any individual subject matter or a part of a database which does not constitute a material part thereof, it shall be regarded as reproduction etc. of a material part of the relevant database if such reproduction, etc. is done repetitively or systematically for a specific purpose in such a manner that conflicts with the common use of the relevant database or causes unjust harm to the database maker's interests.

(3) Protection under this Chapter shall not prejudice the copyrights of the subject matters that form constituent parts of a database and other rights protected under this Act.

(4) Protection under this Chapter shall not extend to the subject matters that

form constituent parts of a database.

Article 94(Limitation on Rights of Database Makers)

(1) The provisions of the foregoing Articles 23, 28 through 34, 36 and 37 shall apply mutatis mutandis to the use of a database which is the object of the rights of a database maker.

(2) In any of the following cases, any person may reproduce, distribute, broadcast or interactively transmit all or a material part of a database provided that said provision shall not apply in those cases where it conflicts with the general use of such database:

1. In the case of use of a database for educational, academic or research purposes provided that said provision shall not apply in those cases where such database is used for a profit-making purpose and
2. In the case of use of a database for the purpose of reporting current events.

Article 95(Protection Period)

(1) Rights of a database maker shall commence from the time when production of a relevant database is completed, and continue to remain in effect for a period of five years from the beginning of the year immediately following such commencement.

(2) In those cases where a considerable amount of investment in terms of human or material resources is made for renewal etc. of a database, the rights of a database maker in connection with the relevant portion of such database shall commence from the time of such renewal etc. and continue to remain in effect for a period of five years from the beginning of the year immediately following such commencement.

Article 96(Transfer by assignment, Exercise, etc., of Rights of Database Makers)

The conditional provision of Article 20 shall apply mutatis mutandis to the offer of a database for transaction, the provision of Paragraph (1) of Article 45 to the transfer of rights of database makers, the provision of Article 46 to the authorization to use databases, the provision of Article 47 to the exercise of the right of pledge regarding rights of database makers, the provision of Article 48 to the exercise of rights of database makers in joint databases and the provision of Article 49 to the expiry of rights of database makers, respectively.

Article 97(Exploitation of Databases Under Legal License)

The provisions of the foregoing Articles 50 and 51 shall apply mutatis mutandis to the use of a database.

Article 98(Registration of Rights of Database Makers)

The provisions of the foregoing Articles 53 through 55 shall apply mutatis mutandis to the registration of the rights of database makers. In such cases, the term "copyright register" in Article 55 shall read as "register of rights of database makers."

CHAPTER 5. SPECIAL PROVISIONS CONCERNING CINEMATOGRAPHIC WORKS

Article 99(Cinematization of Works)

(1) If the owner of authors' property rights authorizes a person to cinematize relevant works, it shall be presumed that such authorization includes each of the following rights, unless provided otherwise:

1. To dramatize a work for the production of a cinematographic work
2. To publicly present a cinematographic work for the purpose of public presentation
3. To broadcast a cinematographic work for the purpose of broadcasting
4. To interactively transmit a cinematographic work for the purpose of interactive transmission
5. To reproduce and distribute a cinematographic work for its original purpose and
6. To use the translation of a cinematographic work in the same way as applied to such cinematographic work.

(2) If the owner of author's property rights authorizes a person to exploit his work by means of cinematization, unless otherwise stipulated, he may authorize, after the lapse of five years from the date of his authorization, a cinematization of the work in another form of cinematographic work.

Article 100(Rights in Cinematographic Works)

(1) If a person, who has agreed with a producer of a cinematographic work to cooperate on the production of a cinematographic work, should obtain the copyright for such cinematographic work, it shall be presumed that the rights necessary for the use of such cinematographic are transferred to the producer of such cinematographic work, unless provided otherwise.

(2) The copyright in a novel, play, work of art or musical work used for the production of the cinematographic work shall not be affected by the provision of Paragraph (1).

(3) As regards the use of a cinematographic work regarding a performer who has agreed with a producer of such cinematographic work to cooperate for the production of such cinematographic work, it shall be presumed that the right of reproduction pursuant to Article 69, the right of distribution pursuant to Article 70, the right of broadcasting pursuant to Article 73, and the right of interactive transmission pursuant to Article 74 are transferred to

the producer of such cinematographic work, unless provided otherwise.

Article 101(Rights of Producers of Cinematographic Works)

(1) Rights necessary for the use of a cinematographic work, which are transferred to the producer of a cinematographic work from the person who has agreed to cooperate for the production of such cinematographic work, shall include the rights to reproduce, distribute, publicly present, broadcast, interactively transmit or use, by other means, such cinematographic work, and may be transferred or be the object of a pledge.

(2) Rights, which are transferred to the producer of a cinematographic work from a performer, shall represent the rights to reproduce, distribute, broadcast or interactively transmit such cinematographic work, and may be transferred or be the object of pledge.

CHAPTER 6 LIMITATION ON LIABILITY OF ONLINE SERVICE PROVIDERS

Article 102(Limitation on liability of Online Service Providers)

(1) In connection with the provision of services by an online service provider related to reproduction or interactive transmission of works, etc., the liability of such online service provider for infringement by other persons on copyrights or other rights protected pursuant to this Act may be reduced or waived in those cases where such online service provider prevents or stops reproduction or transmission thereof when made aware that copyrights or other rights protected pursuant to this Act would be infringed upon due to the reproduction or interactive transmission of works, etc. by the other persons.

(2) In connection with provision of services by an online service provider related to reproduction or interactive transmission of works, etc., such online service provider's liability for infringement by other persons on copyrights or other rights protected pursuant to this Act shall be waived in those cases where such online service provider attempts to prevent or stop reproduction or interactive transmission thereof when made aware that copyrights or other rights protected under this Act would be infringed upon due to the reproduction or interactive transmission of works, etc. by the other persons, but it is technically impossible to do so.

Article 103(Discontinuation of Reproduction or Interactive Transmission)

(1) Any person who claims that his copyrights or other rights protected under this Act are infringed upon due to the reproduction or interactive transmission of works etc. based on the use of services provided by an online service provider (hereinafter referred to as a "claimant" in this Article)

may request such online service provider to cease the reproduction or interactive transmission of such works etc. by providing evidence for such fact.

(2) In those cases where it is requested to stop reproduction or interactive transmission pursuant to the provision of the foregoing Paragraph (1), an online service provider shall immediately stop the reproduction or interactive transmission of such works etc. and give notice thereof to the person who reproduces or interactively transmits such works, etc. (hereinafter referred to as "reproducer/interactively transmitter") and claimant of such request

(3) In those cases where a reproducer/interactively transmitter, who is notified pursuant to the provision of the foregoing Paragraph (2), requests resumption of the reproduction or interactive transmission of works etc. by proving that his reproduction or interactive transmission is based on legitimate rights, an online service provider shall promptly notify the relevant claimant of such request for resumption and a scheduled date of resumption, and resume the reproduction or interactive transmission on such scheduled date.

(4) An online service provider shall designate a person who will be responsible for receiving requests to stop or resume reproduction or interactive transmission pursuant to the provision of the foregoing Paragraphs (1) and (3) (hereinafter referred to as "receiver" in this Article) and make a public announcement thereof to allow those who use his facilities or services to easily have knowledge thereof.

(5) In those cases where an online service provider makes a public announcement pursuant to the provision of the foregoing Paragraph (4), and stops or resumes the reproduction or interactive transmission of works etc. pursuant to the provision of the foregoing Paragraphs (2) and (3), such online service provider's liability for the infringement by other persons on copyrights and other rights protected under this Act as well as the damages incurred upon the reproducer/interactively transmitter may be reduced or waived provided that said provision shall not apply to any liability incurred from the time when such online service provider gains knowledge of the fact that copyrights and other rights protected under this Act are infringed upon due to reproduction or interactive transmission of works, etc. by other persons to the time when a request to stop reproduction or interactive transmission pursuant to the provision of the foregoing Paragraph (1) is made.

(6) Any person, who requests that the reproduction or interactive transmission of works etc. be stopped or resumed in accordance with the foregoing Paragraphs (1) and (3) without any legitimate rights, shall make compensation for any damages incurred thereby.

(7) Matters necessary for provision of evidence, suspension, notification, resumption of reproduction or interactive transmission, designation of a receiver of notices, public announcement, etc. pursuant to the provision of the foregoing Paragraphs (1) to (4) shall be determined by Presidential Decree. In such case, the Minister of Culture and Tourism shall engage in prior consultation with the heads of relevant central administrative authorities.

Article 104 (Liability, etc. of Special Types of Online Service Providers)

(1) Online service providers whose main purpose is to enable different

people to interactively transmit works, etc. among themselves by using computers, etc. (hereinafter referred as "special types of online service providers") shall take necessary measures such as technological measures intercepting illegal interactive transmission of works, etc. upon the requests of rights holders. In such cases, matters related to requests of rights holders and necessary measures shall be determined by the Presidential Decree.

(2) The Minister of Culture and Tourism may determine and notify the scope of special types of online service providers in accordance with Paragraph (1).

CHAPTER 7. COPYRIGHT MANAGEMENT SERVICES

Article 105(Permit, etc. for Copyright Management Services)

(1) Any person who intends to engage in copyright trust services shall obtain a permit from the Minister of Culture and Tourism as prescribed by the Presidential Decree, and who intends to engage in copyright agency or brokerage services shall report to the Minister of Culture and Tourism as prescribed by the Presidential Decree.

(2) Any person who intends to engage in copyright trust services shall satisfy the following conditions, draw up the regulation of copyright trust services, and submit it with the application form to the Minister of Culture and Tourism. The organization shall:

1. Consist of the rights holders with regard to works, etc.
2. Not be for the purpose of profit making and
3. Have ample capability to carry out its duties including collecting, distributing royalties.

(3) Any person falling under any of the following categories shall not be eligible for copyright trust services or copyright agency-brokerage services (hereinafter referred to as "copyright management services") under Paragraph 1:

1. Any person who has no competence or who has limited competence declared by courts
2. Any person whose legal capacity has not been rehabilitated following the declaration of bankruptcy
3. Any person who is within one-year period following the execution of criminal penalties of a fine or more severe punishment, or the final decision to suspend the execution of a sentence for violation of this Act, or who is in the probation period following a suspended sentence
4. Any person who has no domicile in the Republic of Korea and
5. Any legal person or organization in which a person falling under any of Subparagraphs 1 to 4 is the representative or a member of the board.

(4) Any person who has obtained a permit for copyright management services in accordance with Paragraph (1) (hereinafter referred to as "copyright management service provider") may collect fees for his services from the owner of author's property rights or other interested persons.

(5) The rate and amount of fees as prescribed under Paragraph (4) and the rate and amount of royalties that copyright management service providers

may collect from users shall be determined by the copyright management service providers subject to the approval of the Minister of Culture and Tourism provided that this shall not apply to a person who has reported as a copyright agent or broker.

(6) In the case of the approval as provided Paragraph (5), the Minister of Culture and Tourism shall ask for deliberation by the Copyright Commission, and he may set the period for the approval procedure or may approve the application after correcting the applied contents, if necessary,

(7) In the case where an application for approval with regard to the rate and amount of royalties takes place or where the approval for such application is made in accordance with Paragraph (5), the Minister of Culture and Tourism shall notify such contents pursuant to regulations as provided in the Presidential Decree.

(8) The Minister of Culture and Tourism may amend the contents approved pursuant to regulations as provided in Paragraph (5) in order to protect the rights and interests of the owner of authors' property rights and other interested persons or to promote convenient use of works, etc.

Article 106(Obligation of Copyright Trust Service Providers)

(1) Copyright trust service providers shall draw up quarterly lists of works, etc. managed by themselves in accordance with the Presidential Decree into a book or the electronic forms to be offered to anyone at any time during the business hours.

(2) When requested by a user in writing, copyright trust service providers shall, without any justifiable reason, provide the information which the Presidential Decree stipulates as the information necessary for concluding exploitation contracts of works, etc. managed by the copyright trust service providers in writing within a reasonable period of time.

Article 107(Claim for Inspection of Documents)

Any person who has obtained a permit to engage in copyright trust services may claim to inspect necessary documents to estimate royalties on works, etc. concerned against those who exploit for a profit-making purpose the works, etc. held in trust by him. In this case, the exploiter shall comply with the claim without any justifiable reason.

Article 108(Supervision)

(1) The Minister of Culture and Tourism may demand a copyright management service provider to submit a report on his business concerning copyright management services.

(2) In order to promote the protection of rights and interests of authors and the convenient use of works, the Minister of Culture and Tourism may issue necessary orders concerning copyright management services.

Article 109(Cancellation, etc. of Permit)

(1) The Minister of Culture and Tourism may order the suspension of business for a specified period of not longer than six months, if a copyright management service provider commits any of the following acts:

1. that he has received fees in excess of the approved amount in accordance with the provision of Paragraph (5) of Article 105
2. that he has received royalties in addition to the approved amount in accordance with the provision of Paragraph (5) of Article 105
3. that he has failed to submit a report as prescribed under Paragraph (1) of Article 108 without any justifiable reason or he has made a false report and
4. that he has received an order as prescribed under Paragraph (2) of Article 108, but failed to fulfill the order without any justifiable reason.

(2) The Minister of Culture and Tourism may cancel the permit for copyright management services if a copyright management service provider commits any of the following acts:

1. that the copyright management service provider has obtained the permit by false or other unlawful means and
2. that the copyright management service provider continues to do business after receiving an order of suspension under Paragraph (1).

Article 110(Hearing)

If the Minister of Culture and Tourism intends to cancel the permit for or order to close copyright management services in accordance with Paragraph (2) of Article 109, he shall hold a hearing.

Article 111(Surcharge)

(1) In the case where a copyright management service provider commits any of the acts prescribed in Paragraph (1) of Article 109 and therefore be subject to the order of suspension of business, the Minister of Culture and Tourism may impose and collect a surcharge of not more than fifty million won from the copyright management service provider in return for the order of suspension of business concerned.

(2) In the case where the person who was imposed a surcharge in accordance with Paragraph (1) fails to pay it within the term of payment, the Minister of Culture and Tourism shall collect the said surcharge by referring to the practices of dispositions on default of national taxes.

(3) The surcharge collected pursuant to Paragraphs (1) and (2) may be used to establish an order of sound use of works by the collector.

(4) The amount of surcharges concerning the types and extent of violation which is subject to surcharge in accordance with Paragraph (1) and the necessary matters in respect to the procedure of using surcharges, etc. pursuant to the provision of Paragraph (3) shall be determined by the

Presidential Decree.

CHAPTER 8. COPYRIGHT COMMISSION

Article 112(Establishment and Organization of Copyright Commission)

(1) In order to establish an order of sound use of works, etc., deliberate matters concerning copyright and other rights protected under this Act (hereinafter referred to as "copyright" in this Chapter) and conciliate disputes concerning copyright (hereinafter referred to as "disputes"), the Copyright Commission (hereinafter referred to as "the Commission") shall be established.

(2) The Commission shall consist of more than fifteen but fewer than twenty members including one chairman and two vice chairmen.

(3) Members shall be nominated by the Minister of Culture and Tourism among persons falling under any of the following categories and the chairman and vice chairmen shall be elected among the members:

1. Who has bachelor or higher degree in the related areas of copyright with an experience as an associate professor or equivalent at universities or authorized research organizations
2. Who is qualified as a lawyer or currently holds the position as a judge or a public prosecutor
3. Who is experienced in the areas of copyright or culture industry as a public official in higher than Class 4 or an employee at the equivalent position in a public institution
4. Who is currently or has been a member of the board of the organizations in the area of copyright or culture industry or
5. Who has knowledge and experience in other areas related to copyright.

(4) The term of members shall be a period of three years and the members may serve for more than one term.

(5) If a vacancy has occurred in the members of the Commission, the substitute shall be nominated in the same manner as prescribed in accordance with Paragraph (3) who is to serve for the remaining period of his predecessor's term. The substitute may not be nominated, if the total number of the incumbent members exceeds fifteen.

Article 113(Functions)

The Commission shall perform the following functions:

1. To conciliate disputes
2. To deliberate on matters concerning the rate or amount of fees and royalties for the copyright management service providers prescribed under Paragraph (6) of Article 105 and matters referred to the Commission by the Minister of Culture and Tourism or by three or more members jointly
3. To establish an order of sound use of works, etc and promote fair use of

works

4. To conduct international cooperation to protect copyright
5. To conduct researches about, education in and to enhance public awareness on copyright
6. To assist in building copyright policy
7. To assist in building policy regarding technological protection measures and rights management information
8. To establish and operate the information management system for provision of copyright information
9. To provide expert opinions on matters concerning infringements of copyrights, etc.;
10. To perform duties provided for as the authorities of the Commission under the law and
11. To perform other duties entrusted by the Minister of Culture and Tourism.

Article 114 (Conciliation Division)

(1) In order to effectively carry out the affairs of dispute conciliation of the Commission, a conciliation division consisting of either one or three or more members, including one qualified as a lawyer, shall be established in the Commission.

(2) The necessary matter regarding organization and administration of the conciliation division pursuant to Paragraph (1) shall be determined by the Presidential Decree.

Article 115 (Closed Meetings)

The conciliation procedures shall be closed in principle provided that the head of the conciliation division may permit a person to attend a conciliation meeting who he recognizes as eligible with the consent of the persons concerned.

Article 116 (Limitation on Invoking Statements)

The statements made by the persons concerned or the interested persons during the course of conciliation shall not be invoked during the legal or mediation procedures .

Article 117 (Conclusion of a Conciliation)

(1) The conciliation shall be concluded by writing the terms of agreement between the parties on a protocol.

(2) The protocol as referred to in Paragraph (1) shall have the same effect as a judicial conciliation, unless it is concerned with matters which are outside the capacity of the parties to dispose of them.

Article 118 (Expenses of Conciliation)

(1) The expenses of conciliation shall be borne by the requesting party provided that if the conciliation is reached, the expenses shall be borne by both parties in equal share, unless otherwise stipulated.

(2) The amount of conciliation expenses as referred to in Paragraph (1) shall be determined by the Commission.

Article 119 (Provision of Expert Opinions)

(1) If requested by courts or investigative institutions for the purpose of trial or investigation, the Commission may provide expert opinions on matters regarding infringements of copyright, etc.

(2) The necessary matters concerning procedures and methods of provision of expert opinions pursuant to Paragraph(1) shall be determined by the Presidential Decree.

(3) If the Commission provides expert opinions in accordance with Paragraph (1), it may receive fees for such opinions and the amount of fees shall be determined by the Commission.

Article 120 (Copyright Information Centre)

In order to effectively perform the duties prescribed in Subparagraphs 7 and 8 of Article 113, the Copyright Information Center shall be established in the Commission.

Article 121 (Organization, etc. of the Commission)

The organization and administration of the Commission, application and procedures of conciliation, method of payment of conciliation expenses, the organization and administration of the Copyright Information Centre, and other matters necessary for the operation of the Commission shall be determined by the Presidential Decree.

Article 122 (Subsidy for Expenses, etc.)

(1) The state may subsidize the expenses necessary for the operation of the Commission within the limit of its budget.

(2) An individual, a legal person, or an organization may donate money or other properties to the Commission in order to support the performance of its duties prescribed under Subparagraphs (3), (5), and (8) of Article 113 of Copyright Act.

(3) The donation made pursuant to Paragraph (2) shall be managed in a separate account and matters with regard to use of the donation shall be subject to the approval of the Minister of Culture and Tourism.

CHAPTER 9. REDRESS FOR INFRINGEMENT OF RIGHTS

Article 123 (Right of Demanding Suspension of Infringement, etc.)

(1) Any person who has the copyright or other rights protected pursuant to this Act (excluding the rights to be compensated under Articles 25, 31, 75, 76, 82, and 83, hereinafter the same shall apply to this Article) may demand a person infringing his rights to suspend such act or demand a person likely to infringe his rights to take preventive measures or to provide a security for compensation for damages.

(2) If a person who has the copyright or other rights protected pursuant to this Act makes a demand in accordance with Paragraph (1), he may demand the abandonment of the objects made by the act of infringement or other necessary measures.

(3) In the cases of Paragraphs (1) and (2), or in the case where a criminal indictment under this Act has been filed, on request of a plaintiff or accuser, the court may, with or without imposing a security, issue an order to temporarily suspend the act of infringement, or seize the objects made by the act of infringement, or to take other necessary measures.

(4) In the case of Paragraph (3) where a judicial decision was made that no infringement of copyright and other rights protected under this Act has been made, the applicant shall pay compensation for the damages caused by his request.

Article 124 (Acts Considered as Infringement)

(1) Any act that falls under any of the followings shall be deemed an infringement of copyrights or other rights protected in accordance with this Act:

1. The importation into the Republic of Korea, for the purpose of distribution therein, of objects which would constitute an infringement of copyrights or other rights protected pursuant to this Act, if they were made in the Republic of Korea at the time of such importation and

2. The possession, for the purpose of distribution, of objects produced based on any act that constitutes infringement of copyrights or other rights protected under this Act (including those imported as provided in the foregoing Subparagraph 1) with the knowledge of such infringement.

(2) Any act of providing, producing, importing, transferring, lending, or interactively transmitting technologies, services, products, devices, or significant parts thereof for the primary purpose of neutralizing technological protection measures for copyrights or other rights protected pursuant to this Act such as elimination, modification or bypassing thereof without legitimate rights shall be deemed infringement of copyrights or other rights protected in accordance with this Act.

(3) Any act conducted without legitimate rights with the knowledge or negligent ignorance of the fact that infringement on copyrights or other rights protected pursuant to this Act is caused or concealed that falls under any of the followings shall be deemed infringement on copyrights or other rights

protected in accordance with this Act: provided that said provision shall not apply to those cases where such act is deemed unavoidable for technical reasons, or in the light of the nature of works, etc. or the purpose, manner, etc. of the use thereof:

1. Any act of intentionally eliminating, changing, or falsely adding right management information in electronic format and
2. Any act of distributing, publicly performing, communication to the public, or importing for the purpose of distribution of the original or reproduction of the works, etc. with the knowledge of the fact that right management information in an electronic format has been eliminated, changed, or falsely added .
- (4) Any act of exploiting a work in a manner prejudicial to the honor of its author shall be deemed infringement of his moral rights.

Article 125 (Claim for Damages)

(1) Where the owner of author's property rights or other rights (excluding author's and performer's moral rights) protected under this Act (hereinafter referred to as "owner of author's property rights, etc.") claims compensation for damages that he sustained by the act of infringement from a person who has infringed his rights intentionally or by negligence, the amount of profit shall be presumed to be the amount of damages that the owner of author's property rights, etc. sustained , if the infringer has made a profit by his act of infringement.

(2) Where the owner of author's property rights, etc., claims compensation for damages that he sustained by the act of infringement from a person who has infringed his rights intentionally or by negligence, the amount which he would normally entitled to receive by exercising his rights may be claimed as the amount of damages sustained by the owner of author's property rights, etc.

(3) Notwithstanding the provisions of Paragraph (2), if the amount of damages that the owner of author's property rights, etc. sustained exceeds the amount of money as prescribed in Paragraph (2), he may also claim the amount in excess as compensation for the damages.

(4) Any person who infringes upon registered copyrights, publication rights, neighboring rights, or rights of database makers shall be presumed to have been negligent in his act of infringement.

Article 126 (Setting of Amount of Damages)

In those cases where incurrance of damages is recognized, but it is difficult to estimate the amount of damages as provided in the foregoing Article 125, the court may set a reasonable amount of damages by taking into consideration the gist of arguments and the results of evidentiary investigations.

Article 127 (Right of Demanding Recovery of Honor, etc.)

An author or a performer may demand the person who has infringed on his

author's or performer's moral rights intentionally or by negligence to take measures necessary for the recovery of his honor or reputation in return for or together with compensation for damages.

Article 128 (Protection of the Moral Interests after the Death of an Author)

After the death of an author, his surviving family (the surviving spouse, children, parents, grand children, grand parents, brothers and sisters of the dead author) or the executor of his will may, under Article 123, demand compensation from a person who has violated or is likely to violate the provision of Paragraph (2) of Article 14 in respect of the work concerned, or, under Article 127, demand recovery of his honor or reputation from a person who has infringed author's rights intentionally or by negligence, or who violated the provision of Paragraph (2) of Article 14.

Article 129 (Infringement in Respect of a Joint Work)

Each author of, or each owner of authors property rights in, a joint work shall be entitled to make, without the consent of the other authors or owners of author's property rights, the demand prescribed under Article 123, or demand for compensation for damages under Article 125 to his share in a joint work.

CHAPTER 10. SUPPLEMENTARY PROVISIONS

Article 130 (Delegation of Authority)

The Minister of Culture and Tourism may delegate a part of the authority pursuant to this Act to mayors of cities, governors of provinces, the Commission, or copyright related organizations as determined by the Presidential Decree.

Article 131 (Legal Fiction as Public Officials in Application of Penal Provisions)

The members and staff of the Commission shall be considered as public officials if the provisions of Article 129 through 132 of the Criminal Act are applied to them.

Article 132 (Fees)

Anyone who applies for the particulars falling any of the followings pursuant to the provisions of this Act shall pay fees as prescribed by the Ordinance of

the Minister of Culture and Tourism

1. A person who applies for approval for legal license pursuant to the provisions of Articles 50 to 52 (including those cases where the provisions herein apply mutatis mutandis in accordance with Articles 89 and 97)
2. A person who applies for registrations, modifications of the registered particulars, inspection of registers and issuance of copies of registers pursuant to the provisions of Article 53 to 55 (including those cases where the provisions herein apply mutatis mutandis in accordance with Paragraph (3) of Article 63, Articles 90 and 98) and
3. A person who applies for permission for or reports copyright management services pursuant to the provisions of Article 105.

Article 133 (Collection, Abandonment and Deletion of Illegal Reproductions)

- (1) The Minister of Culture and Tourism, mayors of cities, governors of provinces, magistrates of cities, or district leaders may demand relevant public officials collect and abandon the reproductions (excluding those reproductions interactively transmitted through information and telecommunication networks) infringing on copyright and other rights protected pursuant to this Act or tools, devices and programs that manufactured for the purpose of neutralizing technological protection measures for works, etc., if they are found, in accordance with the procedures and methods as prescribed under the Presidential Decree.
- (2) The Minister of Culture and Tourism may entrust affairs as prescribed under Paragraph (1) to an organization determined by the Presidential Decree. In this case, the persons who engage in the affairs shall be considered as public officials.
- (3) In the case where the relevant public officials perform collection and abandonment activities pursuant to the provisions of Paragraphs (1) and (2), the Minister of Culture and Tourism may ask related organizations for cooperation, if necessary.
- (4) In the case where it is considered that the order of use of works, etc. is seriously damaged due to interactive transmissions, etc. through information and telecommunication networks of reproductions infringing on copyright and other rights protected pursuant to this Act, the Minister of Culture and Tourism may order the reproducers/interactive transmitters or online service providers to delete or suspend such reproductions or interactive transmissions as prescribed under the Presidential Decree after the deliberation by the Commission in accordance with Article 112.
- (5) The Minister of Culture and Tourism may establish and operate an organization necessary for the affairs under the provisions of Paragraphs (1) and (4).
- (6) In the case where the provisions of Paragraph (1) to (4) concur with the provisions of other laws, this Act shall be applicable in preference to other laws.

Article 134 (Promotion, etc. of Environment for Sound Use of Works)

(1) The Minister of Culture and Tourism may conduct businesses necessary to promote fair use of works such as providing information regarding works, etc. in which copyright has been expired.

(2) The Minister of Culture and Tourism may formulate and implement policies in respect to rights management information and technological protection measures of works, etc.

(3) The necessary matters with regard to businesses in accordance with Paragraph (1) and formulation and implementation of policies pursuant to Paragraph (2) shall be determined by the Presidential Decree.

Article 135 (Donation of Author's Property Rights, etc.)

(1) The owner of author's property rights, etc. may donate their rights to the Minister of Culture and Tourism.

(2) The Minister of Culture and Tourism may appoint the organization which is capable of managing the rights under works, etc. donated by the owner of author's property rights, etc.

(3) The organization appointed pursuant to Paragraph (2) shall not use works, etc. for profit-making purposes or against the intention of the owner of author's property rights, etc.

(4) The necessary matters in respect to donation procedures, appointment of the organization, etc. pursuant to Paragraphs (1) and (2) shall be determined by the Presidential Decree.

CHAPTER 11. PENAL PROVISIONS

Article 136 (Crime of Infringement on Rights)

Any person, who infringes upon authors' property rights or other property rights protected pursuant to this Act (excluding the rights under the provision of Article 93) by means of reproduction, public performance, communication to the public, exhibition, distribution, rental or production of a derivative work, may be punished by imprisonment for not more than five years or a fine of not more than fifty million won, or both.

(2) Any person, who falls under any of the followings, may be punished by imprisonment for not more than three years or a fine of not more than thirty million won, or both:

1. Any person who has infringed on author's or performer's moral rights and defamed the honor of the author or performer
2. Any person who has made registration, as provided in Articles 53 and 54, by false means (including those cases where the provisions herein apply mutatis mutandis in accordance with Paragraph (3) of Article 63, Articles 90 and 98)
3. Any person who has infringed upon a database maker's rights protected

pursuant to Article 93 by means of reproduction, distribution, broadcasting or interactive transmission

4. Any person who has committed an act considered to be infringement pursuant to the provisions of Paragraph (1) of Article 124

5. Any person who has committed an act considered to be infringement pursuant to the provision of Paragraph (2) of Article 124 in the conduct of business for a profit-making purpose and

6. Any person who has committed an act considered to be infringement pursuant to the provision of Paragraph (3) of Article 124 in the conduct of business for a profit-making purpose provided that said provision shall not apply to any person lacking in the knowledge, by negligence, of the fact that such act causes or conceals infringement on copyrights or other rights protected in accordance to this Act.

Article 137 (Crime of Illegal Publications, etc.)

Any person who has committed any of the following acts shall be punishable by imprisonment for a term of not more than one year or a fine of not more than ten million won:

1. Any person who has made a work public under the real name or pseudonym of a person other than the author

2. Any person who has publicly performed or communicated to the public a performance or distributed reproductions of the performance under the real name or pseudonym of a person who is not the actual performer.

3. Any person who has violated the provision of Paragraph (2) of Article 14

4. Any person who has operated copyright trust services without obtaining a permit as prescribed under Paragraph (1) of Article 105

5. Any person who has committed an act considered to be an infringement pursuant to the provisions of Paragraphs (4) of Article 124 and

6. Any person, who has interfered with the business of an online service provider by deliberately requesting such online service provider to stop or resume reproduction or interactive transmission as provided in Paragraphs (1) or (3) of Article 103 with the knowledge that he does not have the legitimate right to do so.

Article 138 (Crime of Failure to Indicate Sources)

Any person who has violated any of the following Subparagraphs shall be punishable by a fine of not more than five million won:

1. Any person who has violated the provisions of Paragraph (4) of Article 35

2. Any person who has not indicated the sources prescribed pursuant to Article 37 (including those cases where the provisions herein apply mutatis mutandis in accordance with Articles 87 and 94);

3. Any person who has not indicated the notice of the owner of the right of reproduction in violation of the provisions of Paragraph (3) of Article 58

4. Any person who has violated the provisions of Paragraph (2) of Article 59

5. Any person who has engaged in copyright agency or brokerage services without reporting as prescribed under the provisions of Paragraph (1) of Article 105, or who has continued the services after being ordered to close the services under the provision of Paragraph (2) of Article 109.

Article 139 (Forfeiture)

Reproductions made in violation of copyright or other rights protected pursuant to this Act which are owned by the infringing person, printer, distributor or performer shall be confiscated.

Article 140 (Complaint)

Crimes prescribed in this Chapter shall be prosecuted only when a right holder makes a complaint except for any of the following cases:

1. In the case where a person commits an act which falls under the provisions of Paragraph (1) of Article 136 and Subparagraph 3 of Paragraph (2) of Article 136 habitually for purposes of commercial advantages or private financial gain
2. In the case as provided in Subparagraphs (2), (5), and (6) of Paragraph (2) of Article 136, Subparagraphs 1 through 4 and 6 of Article 137, and Subparagraph 5 of Article 138 and
3. In the case where a person commits an act which falls under the provisions of Subparagraph 4 of Paragraph (2) of Article 136 for profit-making purposes.

Article 141 (Joint Penal Provisions)

If a representative of a legal person, or an agent, employee or other employed persons of a legal person or a individual has committed a crime as prescribed under this Act with respect to the affairs of the legal person or the individual, the fine prescribed under the Articles concerned shall be imposed on such a legal person or an individual in addition to the punishment of the offender.

Article 142 (Fine for Negligence)

(1) A person who fails to take necessary measures pursuant to Article 104 shall be punished by a fine for negligence not exceeding thirty million won anyone who fails to fulfill his obligations under Article 106 or who fails to abide by order of the Minister of Culture and Tourism under Paragraph (4) of Article 133 shall be punished by a fine for negligence not exceeding ten million won.

(2) The fine for negligence under paragraph (1) shall be levied and collected by the Minister of Culture and Tourism under the conditions as prescribed by the Presidential Decree.

(3) A person who is dissatisfied with the disposition of a fine for negligence under Paragraph (2) may file an objection with the Minister of Culture and Tourism within thirty days from the date of receiving a notice of the said disposition.

(4) Where a person subjected to a disposition of a fine for negligence under

paragraph(2) raises an objection under paragraph (3), the Minister of Culture and Tourism shall, without delay, notify the competent court, which in turn shall proceed to a trial on a fine for negligence pursuant to the Non-Contentious Case Litigation Procedure Act.

(5) If neither an objection is raised nor is a fine for negligence paid within the period as prescribed in paragraph (3), the said fine for negligence shall be collected by referring to the practices of dispositions on default of national taxes.

ADDENDA

Article 1(Date of Enforcement)

This Act shall come into force six months after the date of its promulgation provided that the provisions of Paragraphs(1) and (3) of Article 133 shall enter into force on the date of its promulgation.

Article 2(Transitional Measures Concerning Scope of Application)

(1) This Act shall not apply to those works, etc. or parts of such works, etc. in which copyright has been expired in whole or in part, and which have not been protected by the provisions of the former Act before the enforcement of this Act.

(2) The exploitation of works, etc. done before the enforcement of this Act shall be subject to the provisions of the former Act.

(3) The provisions of the former Addenda shall be continuously applied after the enforcement of this Act.

Article 3 (Transitional Measures Concerning Producers of Phonograms)

Producers of phonograms under the provisions of the former Act shall be considered as producers of phonograms under this Act.

Article 4 (Transitional Measures Concerning a Work in the Name of an Organization)

Matters with regard to the authors of the works which have been made pursuant to Article 9 of the former Act before the enforcement of this Act shall be subject to the provisions of the former Act.

Article 5 (Transitional Measures Concerning Appointment of an Organization)

The organization which has been appointed to receive compensations pursuant to the provisions of the former Act before the enforcement of this Act shall be considered as an organization appointed under this Act.

Article 6 (Transitional Measures Concerning Scope of Legal License)

Legal licenses issued pursuant to the provisions of the former Act at the time of the enforcement of this Act shall be considered as Legal licenses issued under this Act.

Article 7 (Transitional Measures Concerning Registration)

The registration made pursuant to the provisions of the former Act at the time of the enforcement of this Act shall be considered to have been done under this Act provided that the registration of the name, etc. of the owner of author's property rights done in accordance with the provision of Article 51 of the former Act shall be subject to the provisions of the former Act.

Article 8 (Transitional Measures Concerning Initial Date of Protection Period of Phonograms)

The initial date of protection period of a phonogram which has been fixed but not been published yet before the enforcement of this Act shall be computed pursuant to this Act.

Article 9 (Transitional Measures Concerning Undistributed Compensations)

Paragraph (8) of Article 25 in this Act (including those cases where the provisions herein apply mutatis mutandis in accordance with Paragraph (6) of Article 31, Paragraph (2) of Article 75, and Paragraph (2) of Article 82) shall apply to the compensations received before the enforcement of this Act pursuant to the provisions of Paragraph (3) of Article 23, Paragraph (5) of Article 28, and Article 65 and 68 of the former Act. In such cases, the notification date of distribution of compensation shall be the last day of the year in which the right holder can receive the said compensation for the first time from an organization paying compensations.

Article 10 (Transitional Measures Concerning Moral Rights of Performers)

The provisions of Articles 66 and 67 of this Act shall not apply to the performances made before the enforcement of this Act.

Article 11 (Transitional Measures Concerning Copyright Management Service Providers)

A person who obtained permission of a copyright management service or who reported as a copyright management service pursuant to the provisions of the former Act at the time of the enforcement of this Act shall be considered as the person who obtained permission of a copyright trust service or a copyright agency-brokerage service, respectively.

Article 12 (Transitional Measures Concerning Fees and Royalties of Copyright Trust Service Providers)

The rate and amount of the fees and royalties of copyright trust service providers approved pursuant to the provision of the former Act shall be considered as to have been approved under this Act.

Article 13 (Transitional Measures Concerning Copyright Commission, etc.)

The Copyright Commission for Deliberation and Conciliation and its members under the provisions of the former Act shall be considered as the Copyright Commission and its members under Article 8 of this Act.

Article 14 (Transitional Measures Concerning Penal Provisions)

The penal provisions of the former Act shall apply to the acts committed before the enforcement of this Act.

Article 15 (Transitional Measures Concerning Amendment of Other Laws)

(1) The Local Tax Act shall be amended in part as follows: "Article 52, Paragraph (3) of Article 60, Article 73 and Paragraph (9) of Article 73 of Copyright Act" stipulated in Subparagraph (2) of Article 143 shall refer to "Article 54, Paragraph (3) of Article 63, Article 90 and 98 of Copyright Act".
(2) The Broadcasting Act shall be amended in part as follows: "Article 69 of Copyright Act" stipulated in Paragraph (3) of Article 78 shall refer to "Article 85 of Copyright Act".

Article 16 (Relation with Other Laws)

In the case where the provisions of the former Act was quoted in other laws at that time of the enforcement of this Act, those laws shall be considered as quoting the relevant provisions of this Act